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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,244	09/30/2003	Mark A. Brodic	YOR920030250US1 (590.111)	6386
35195	7590	05/04/2006	EXAMINER	
FERENCE & ASSOCIATES 409 BROAD STREET PITTSBURGH, PA 15143			IQBAL, NADEEM	
			ART UNIT	PAPER NUMBER
			2114	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/676,244	BRODIE ET AL.	
	Examiner	Art Unit	
	Nadeem Iqbal	2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10-12 and 19 is/are rejected.
- 7) ☐ Claim(s) 4-9 and 13-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 10-12, & 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Sofman (U.S. Patent number 6038390).

3. As per claim 1, Sofman teaches (col. 1, lines 62-66) a network carrying a plurality of demand-routes between a plurality of nodes interconnected. The method includes selecting from the plurality of spans a set of critical spans. He thus teaches limitations an apparatus for diagnosing problems in multiple node network, an arrangement for determining a candidate probe set and an arrangement for determining which problems can be diagnosed by the candidate probe set. He also teaches (col. 1, lines 65-67) selecting from the set of critical spans a minimal set of critical spans. He thus teaches limitations pertain to an arrangement for finding small sets which can diagnose the same problems as the candidate probe set.

4. As per claim 2, With reference to the candidate probe set is determined by considering the routes that a probe can traverse through the network from at least one node to at least one other node. Sofman teaches (col. 2, lines 1-7).

5. As per claim 3, With reference to the candidate probe set is determined by using a dependency matrix which has as many rows as the number of probes and as many columns as the number of nodes. Sofman teaches (col. 2, lines 23-27).

6. As per claims 10 & 19, Sofman teaches (col. 1, lines 62-66) a method includes selecting from the plurality of spans a set of critical spans. He thus teaches limitations an arrangement for determining a candidate probe set and an arrangement for determining which problems can be diagnosed by the candidate probe set. He also teaches (col. 1, lines 65-67) selecting from the set of critical spans a minimal set of critical spans. He thus teaches limitations pertain to an arrangement for finding small sets which can diagnose the same problems as the candidate probe set.

7. As per claim 11, With reference to the candidate probe set is determined by considering the routes that a probe can traverse through the network from at least one node to at least one other node. Sofman teaches (col. 2, lines 1-7).

8. As per claim 12, With reference to the candidate probe set is determined by using a dependency matrix which has as many rows as the number of probes and as many columns as the number of nodes. Sofman teaches (col. 2, lines 23-27).

Allowable Subject Matter

9. Claims 4-9, 13-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

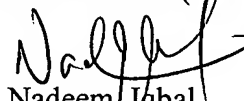
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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nadeem Iqbal whose telephone number is (571)-272-3659. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571)-272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nadeem Iqbal
Primary Examiner
Art Unit 2114

NI